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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,610	08/03/2001	Richard B. Himmelstein	4159-4003US1	7495
27123	7590	05/10/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			BACKER, FIRMIN	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/921,610	Applicant(s) HIMMELSTEIN, RICHARD B.	
	Examiner Firmin Backer	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Request for Reconsideration***

1. This is in response to a request for reconsideration file February 18<sup>th</sup>, 2005. Claims 100-104, 107, 108 and 111-133 are being reconsidered in this action.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 100-104, 107, 108 and 111-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minton (U.S. PG Pub No. 2002/0091611) in view of Rickard et al (U.S. Patent No. 6,112,189).

4. As per claims 100, 103, 104, 119, 124 and 129 Minton teaches a method for facilitating the bartering of publicly traded securities on a computerized system comprising receiving and communicating on a computerized system a first barter from a user a first security including a quantity thereof to be sold in a barter, a second security including a quantity thereof to be purchased in the barter, and a condition relating to the value of the barter order which condition the barter may be executed (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*). Minton further teaches comparing the first security to be sold and the second security to be purchased in the barter a condition relating to the value of the barter and determining a selected barter order

Art Unit: 3621

which if executed will consummate the first and multiple barter and transmitting an indication that the barter order may be executed and receiving from the user a request to execute the barter order (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*). Minton fail to teach an inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security. However, Rickard et al teach an inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security (*see column 20 lines 41-21 line 46*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Minton to include Rickard et al's inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security because this would have maximized the mutual satisfaction function, which establishes a set of prices, volumes and parties for trading each of the securities, and executing simultaneously a trade among the identified parties for the multiple securities at the established prices and volumes at the same time.

5. As per claims 101, 102, 105, 106, 111-118, 120-123, 125-128 and 130-133, they depend upon claims 100, 103, 104, 119, 124 and 129 and disclosed the same inventive concept.

Therefore, they are rejected under the same rationale.

*Response to Arguments*

6. Applicant's arguments filed February 18<sup>th</sup>, 2005 have been fully considered but they are not persuasive.

a. Applicant argues that the prior arts Minton taken alone or in combination with Rikards et al fail to disclose the inventive concept taught in the pending claimed invention. Examiner respectfully disagrees with Applicant characterization of the prior art. Minton teach an individual securities trading network that allows users to transmit to server offers to buy and sell various securities. Server receives these offers and transmits them to other users who are interested in the same security. When one user accepts another user's offer to buy or sell a security, the server "crosses" these orders. The server crosses an order by matching an order to buy a security with an order to sell the same security at the same price. Crossing two orders involves matching an order from one individual directly with the order of another individual, and executing these orders, after broker approval. As stated above, when a user places an order to buy or sell a security, the server allows a broker to pre-approve the user's offer to buy or sell a security. Rikard further teaches an apparatus for trading prices and trading volumes for simultaneous trading of different securities. The apparatus includes a data mapper, an input collector a joint function calculator, a composite function calculator, a composite function maximizer, and a trade executor. The data mapper maps data from a linked trader regarding a simultaneous trade of different securities as a group into a first function expressing degrees of satisfaction of the linked trader to trade the different securities

simultaneously as a group over a desired range of costs. The input collected collects input from traders regarding a degree of satisfaction of each of the traders to take a position opposite to the linked trader in at least one of the different securities as a function of price. The joint function calculator determines from the input of the traders a joint function expressing a joint degree of satisfaction by one or more second parties among the traders to take an opposite position in all of the different securities as a function of price in each of the different securities. The composite function calculator determines a composite function of the first function and the joint function. The composite function represents a mutual degree of satisfaction to execute a trade of the different securities between the linked trader and the one or more second parties. The composite function maximizer identifies for each of the different securities a trading price, a trading volume and a trading party among the one or more second parties that maximizes the composite function. The trader executor executes simultaneously with the linked trader and the trading parties a trade in the different securities at the trading prices and the trading volumes identified by the composite function maximizer. For the reason above the rejection is sustain.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

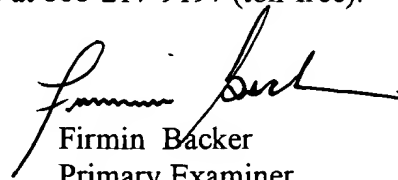
Art Unit: 3621

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (571) 272-6703. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Firmin Backer  
Primary Examiner  
Art Unit 3621

May 5, 2005